



U.S. Serial No. 09/879,279

Filed: June 12, 2001

**FILING BY "FIRST CLASS MAIL" UNDER 37 C.F.R. § 1.8**

I hereby certify that the following correspondence is being deposited with the United States Postal Service as "First Class Mail" with proper postage in an envelope addressed to: Mail Stop Sequence, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 19, 2004.

- 1) Response to Notice to Comply and Submission of Sequence Listing and Statement
- 2) Copy of the Notice to Comply mailed April 6, 2004
- 3) Figure 1 – Annotated Sheet Showing Changes
- 4) Figure 1 – Replacement Sheet
- 5) Paper Copy of the Sequence Listing (2 pages total)
- 6) Computer Readable Form of the Sequence Listing (on diskette)
- 7) Credit Card Payment Form
- 8) Return Postcard

Melissa Hardy

Name

Melissa Hardy

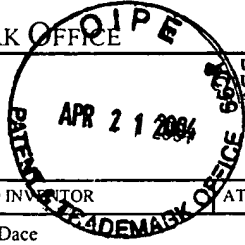
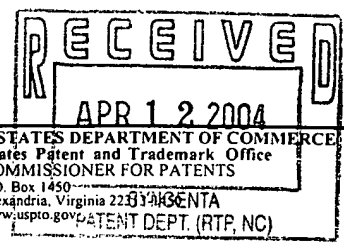
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,279	06/12/2001	Gayle Dace	45163-1005	3524

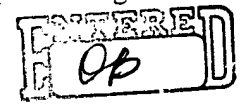
22847 7590 04/06/2004  
SYNGENTA BIOTECHNOLOGY, INC.  
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RESEARCH TRIANGLE PARK, NC 27709-2257

EXAMINER	
EPPERSON, JON D	
ART UNIT	PAPER NUMBER
1639	

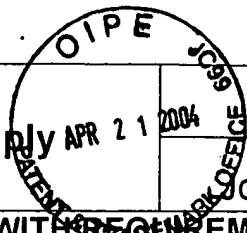
DATE MAILED: 04/06/2004

Response to Notice to Comply Due:  
May 6, 2004.

Please find below and/or attached an Office communication concerning this application or proceeding.



**Notice to Comply**



Application No.

09/879,279

Applicant(s)

Dace et al.

Examiner

Jon D. Epperson

Art Unit

1639

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS  
CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE  
DISCLOSURES**

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other: See figure 1 and also page 11, lines 23-24. Please re-check the entire specification.

**Applicant Must Provide:**

- ☒ An **initial** or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An **initial** or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (571) 272-0951

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

4/1/2004

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

## Notice To Comply: Sequence Rules (Bonafide)

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the following reason(s): Figure 1 discloses nucleic acid sequences e.g., elements 108, 110 and 112 that contain greater than 10 nucleotides. Furthermore, page 11, lines 23-24 contain sequences with 12 nucleotides. Please re-check the entire specification for compliance. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132.

Please note also that a typographical error was made in the Restriction Requirement dated 8/19/2003 (Paper No. 8). Group I should read on claims 1-8 and 11-24 (not 1-24 as shown) because Group II reads on claims 9-10 (e.g., see Paper No. 8, paragraph 1, Groups I and II). Therefore, Group I now reads on claims 1-8, 22-24 and newly added claim 31 (e.g., see 1/22/2004 Response). Confirmation of this election is respectfully requested.

APPLICANT IS GIVEN A ONE MONTH EXTENDABLE PERIOD WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Please direct all replies to the United States Patent and Trademark Office via one (1) of the following:

1. Electronically submitted through EFS-Bio (<<http://www.uspto.gov/ebc/efs/downloads/documents.htm>>, EFS Submission User Manual - ePAVE)
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BENNETT OCELOA  
PRIMARY EXAMINER

Crystal Plaza Two  
2011 South Clark Place  
Arlington, Virginia 22202

4. Mailed by Federal Express, United Parcel Service or other delivery service to:  
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Any inquiry concerning this communication should be directed to Jon D. Epperson whose telephone number is (575) 272-0808. The Examiner can normally be reached on Monday through Friday from 9 am to 6 pm. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Wang, can be reached at (571) 272-0811. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571) 272-1600.

Jon D. Epperson  
AU 1639